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13281
U.S. PTOUTILITY
PATENT APPLICATION
TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No. 1565.0020003/MBR/GSB

First Inventor VERRIER et al.

Title KIT FOR TRANSVENOUSLY ACCESSING THE PERICARDIAL SPACE VIA THE RIGHT ATRIUM

Express Mail Label No.

22533 U.S. PTO
10762575

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

ADDRESS TO:

Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

1. ☐ Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)
2. ☒ Applicant claims small entity status.
See 37 CFR 1.27.
3. ☒ Specification [Total Pages 35]
(preferred arrangement set forth below)
- Descriptive title of the invention
 - Cross Reference to Related Applications
 - Statement Regarding Fed sponsored R & D
 - Reference to sequence listing, a table, or a computer program listing appendix
 - Background of the Invention
 - Brief Summary of the Invention
 - Brief Description of the Drawings (if filed)
 - Detailed Description
 - Claim(s)
 - Abstract of the Disclosure
4. ☒ Drawing(s) (35 U.S.C. 113) [Total Sheets 9]
5. Oath or Declaration [Total Sheets]
- a. ☐ Newly executed (original or copy)
- b. ☐ Copy from a prior application (37 CFR 1.63(d))
(for continuation/divisional with Box 18 completed)
- i. ☐ **DELETION OF INVENTOR(S)**
Signed statement attached deleting inventor(s) name in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. ☒ Application Data Sheet. See 37 CFR 1.76

7. ☐ CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
- a. ☐ Computer Readable Form (CRF)
- b. Specification Sequence Listing on:
- i. ☐ CD-ROM or CD-R (2 copies); or
- ii. ☐ Paper
- c. ☐ Statements verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

9. ☐ Assignment Papers (cover sheet & document(s))
10. ☐ 37 CFR 3.73(b) Statement ☐ Power of Attorney
(when there is an assignee)
11. ☐ English Translation Document (if applicable)
12. ☐ Information Disclosure ☐ Copies of IDS
Statement (IDS)/PTO-1449 Citations
13. ☐ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)
16. ☐ Nonpublication Request under 35 U.S.C. 122
(b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
17. ☒ Other: Authorization under 37CFR 1.136(a)(3)
The name of the assignee is: Beth Israel Deaconess Medical Center

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☒ Divisional ☐ Continuation-in-part (CIP) of prior application No.: 09/769,439

Prior application information:

Examiner

Lam, Ann Y.

Art Unit: 4394

For CONTINUATION OF DIVISIONAL APPS only; The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

☒ Customer Number: 26111 OR ☐ Correspondence address below

Name Sterne, Kessler, Goldstein & Fox P.L.L.C.

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Name (Print/Type) George S. Bardmesser Registration No. (Attorney/Agent) 44,020

Signature Date 1/23/04

This collection of information is required by 37 CFR 1.53(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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January 23, 2004

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Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Mail Stop Patent Application

Re: U.S. Non-Provisional Patent Application under 37 C.F.R. § 1.53(b)
Appl. No.: *To Be Assigned*; Filed: January 23, 2004
(Div. of Appl. No. 09/769,439; Filed: January 26, 2001)
For: **Kit for Transvenously Accessing the Pericardial Space Via the Right Atrium**
Inventors: **VERRIER et al.**
Our Ref: 1565.0020003/MBR/GSB

Sir:

The following documents are forwarded herewith for appropriate action by the U.S. Patent and Trademark Office:

1. USPTO Utility Patent Application Transmittal Form PTO/SB/05;
2. Authorization to Treat a Reply As Incorporating An Extension of Time Under 37 C.F.R. § 1.136(a)(3);
3. U.S. Utility Patent Application entitled:

Kit for Transvenously Accessing the Pericardial Space Via the Right Atrium

and naming as inventors:

Richard L. VERRIER
Sergio WAXMAN

the application comprising:

- a. an Application Data Sheet (37 C.F.R. § 1.76);
- b. specification containing:

- i. twenty-six **(26)** pages of description prior to the claims;
 - ii. eight **(8)** pages of claims **(41)** claims);
 - iii. a one **(1)** page abstract;
- c. Nine **(9)** sheets of drawings (FIGs. **1-10**);
- 4. Communication to the Examiner;
- 5. Information Disclosure Statement;
- 6. Form PTO-1449 listing fifty-seven **(57)** cited documents **(6)** pages); and
- 7. Two **(2)** return postcards.

The name of the assignee is **Beth Israel Deaconess Medical Center.**

Correspondence should be sent to Customer Number 26111.

It is respectfully requested that, of the two attached postcards, one be stamped with the filing date of these documents and returned to our courier, and the other, prepaid postcard, be stamped with the filing date and unofficial application number and returned as soon as possible.

This patent application is being submitted under 37 C.F.R. § 1.53(b) without Declaration and without filing fee.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

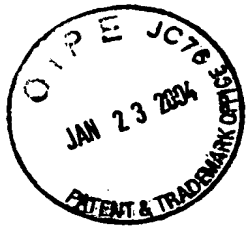


George S. Bardmesser
Attorney for Applicants
Registration No. 44,020

MBR/GSB:as

Enclosures

221611.1



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Verrier *et al.*

Appl. No.: *To Be Assigned (Div. of Appl. No. 09/769,439; Filed: January 26, 2001)*

Filed: Herewith (*January 23, 2004*)

For: **Kit for Transvenously Accessing the Pericardial Space Via the Right Atrium**

Confirmation No.: *To Be Assigned*

Art Unit: *To Be Assigned*

Examiner: *To Be Assigned*

Atty. Docket: 1565.0020003/MBR/GSB

Authorization to Treat a Reply as Incorporating an Extension of Time Under 37 C.F.R. § 1.136(a)(3)

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

The U.S. Patent and Trademark Office is hereby authorized to treat any concurrent or future reply that requires a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. The U.S. Patent and Trademark Office is hereby authorized to charge all required extension of time fees to our Deposit Account No. 19-0036, if such fees are not otherwise provided for in such reply.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

George S. Bardmesser
Attorney for Applicants
Registration No. 44,020

Date: January 23, 2004

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Washington, D.C. 20005-3934
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

VERRIER *et al.*

Appl. No. : *To Be Assigned (Div. of Appl.*
No. 09/769,439; Filed: January 26, 2001)

Filed: Herewith (*January 23, 2004*)

For: **Kit for Transvenously Accessing
the Pericardial Space Via the
Right Atrium**

Confirmation No.: *To Be Assigned*

Art Unit: *To Be Assigned*

Examiner: Ann Y. Lam

Atty. Docket: 1565.0020003/MBR/GSB

Communication to Examiner

Commissioner for Patents
Washington, D.C. 20231

Sir:

Claims 30-36, 45-47, 49, 50, 55, 56, 61-63 and 66-71 of the parent application No. 09/769,439 were rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by Patterson *et al.*, U.S. Patent No. 5,941,869. The independent claims of this divisional application all generally follow the format of the claims in the parent application, but also recite “a locking device to fix a position of the leading guide wire relative to the infusion guide wire.” Support for this language may be found, for example, at page 18, lines 4-5, page 19, lines 4-5, and page 20, lines 14-21 of the specification of the parent application. This language (which was also recited in the non-elected claim 65 of the parent application) clearly distinguishes over Patterson *et al.*

For the record, Applicants also respectfully disagree with the assertion by the Examiner in the parent application that the catheter of Patterson *et al.* can be used for transvenous entry into the heart and for penetrating the right atrial wall of the heart for entry into the pericardial space. However, Applicants believe that the recitation of the locking mechanism in the claims of this divisional application is sufficient to distinguish over Patterson *et al.* without further discussion of this aspect.

Conclusion

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



George S. Bardmesser
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Registration No. 44,020

Date: 1/23, 2004

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